

**Remarks/Arguments:**

In response to the restriction requirement, Applicants hereby elect Group II, species mouse, with traverse. Applicants respectfully request reconsideration of the restriction on the following grounds.

(i) At the outset, Applicants do not understand the restriction of the invention into Groups II and III as according the Examiner both groups are drawn to the same subject matter. Rejoinder of Groups II and III is requested.

(ii) The Examiner states that the inventions in Groups I-V lack a single general inventive concept because they lack the same or corresponding special technical feature. According to the Examiner the technical feature in all groups "is subjecting an excised plaque to force or pressure means and measuring the amount of force or pressure required to rupture the plaque. This element cannot be a special technical feature under PCT 13.2 because the element is shown in the prior art. Lendon *et al.* (Journal of Biomedical Engineering 1993; 15(1):27-33) teaches subjecting an excised plaque to force or pressure means and measuring the amount of force or pressure required to rupture the plaque."

Applicants respectfully submit that the Examiner is incorrect in his characterization of Lendon *et al.* (*supra*). Lendon *et al.* (*supra*) teach the use of a plaque component, i.e., an atherosclerotic CAP, which has to be excised/dissected away from the whole plaque before the test can be performed. In contrast, the present invention uses a whole plaque, rather than a plaque component as required by Lendon. As the claims of the present invention all require a plaque, and not a plaque component, and the fact that the use of a plaque is novel, the claims should be rejoined.

(iii) Furthermore, the present Application was filed initially by way of the PCT route and the PCT has specific provisions concerning unity of invention in Article 3(4)(iii) and Rule 13.

PCT Article 27(1) states that:

*..no national law shall require compliance with requirements relating to the form or contents of the international application different from or additional to those which are provided for in this Treaty and the Regulations..*

It is thus clear that the provisions concerning unity of invention in PCT Article 3(4)(iii) and Rule 13 are still binding on this application and therefore on the present Examiner.

The requirements of Rule 13 PCT are checked by the International Searching Authority and by the International Preliminary Examining Authority and no objection alleging a lack of unity was raised in the international phase of the prosecution of this application.

In the present application, it was the position of the International Searching Authority that the instant invention related to a single general inventive concept. A search was carried out without requesting any further search fees – fees that would have been required had the instant invention been deemed to have related to more than a single general inventive concept.

In the MPEP Section 1850 under “The Requirement For "Unity Of Invention"” it is stated:

*..when the Office considers international applications ... during the national stage as a Designated or Elected Office under 35 USC 371, PCT Rule 13.1 and 13.2 will be followed when considering unity of invention of claims of different categories...*

Since the International Examiner was able to identify a single general inventive concept connecting the subject matter of the invention and search the application by applying PCT Rule 13.1 and 13.2, the present Examiner must arrive at the same conclusion.

No serious burden was alleged by the International Examiner with regard to the search and no objections as to lack of unity were made in the International Phase of this application. The question of unity is to be judged by the same standards as the International Examiner, and therefore Applicants respectfully submit that it is difficult to see how the present Examiner can maintain the restriction requirement.

Applicants believe the application is in condition for allowance, which action is respectfully requested.

Although Applicants believe no fees are due, the Commissioner is hereby authorized to charge any deficiency in the fees or credit any overpayment to deposit account No. 50-3231, referencing Attorney Docket No. 100916-1P US.

Application No. 10/555,586  
Amendment Dated June 26, 2007  
Reply to Office Action of March 26, 2007

A petition for a two month extension of time is being filed herewith, the Commissioner is hereby authorized to charge any deficiency in the fees or credit any overpayment to deposit account No. 50-3231, referencing Attorney Docket No. 100916-1P US.

Although Applicants believe no excess claim fees are due, the Commissioner is hereby authorized to charge any deficiency in the fees or credit any overpayment to deposit account No. 50-3231, referencing Attorney Docket No. 100916-1P US.

Respectfully submitted,  
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